

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA

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DEBRA H. HACKETT, CLERK
U.S. DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA

WALTER JAMES AUBRY
Full name and prison number
of plaintiff(s)

v.

Lee County Detention

Facility

Lee County Justice Center

Judge J. WALKER III, Sheriff

J. JONES, MAJOR C. TORBERT
Name of person(s) who violated
your constitutional rights.
(List the names of all the
persons.)

CIVIL ACTION NO. 3:05cv631-F
(To be supplied by Clerk of
U.S. District Court)

I. PREVIOUS LAWSUITS

A. Have you begun other lawsuits in state or federal court
dealing with the same or similar facts involved in this
action? YES () NO (✓)

B. Have you begun other lawsuits in state or federal court
relating to your imprisonment? YES () NO (✓)

C. If your answer to A or B is yes, describe each lawsuit
in the space below. (If there is more than one lawsuit,
describe the additional lawsuits on another piece of
paper, using the same outline.)

1. Parties to this previous lawsuit:

Plaintiff(s) _____

Defendant(s) _____

2. Court (if federal court, name the district; if
state court, name the county) _____

3. Docket number _____
4. Name of judge to whom case was assigned _____
5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?) _____
6. Approximate date of filing lawsuit _____
7. Approximate date of disposition _____

II. PLACE OF PRESENT CONFINEMENT LEE CO. Detention Facility

PLACE OR INSTITUTION WHERE INCIDENT OCCURRED LEE CO. Detention Facility - Lee County Justice Center.

III. NAME AND ADDRESS OF INDIVIDUAL(S) YOU ALLEGE VIOLATED YOUR CONSTITUTIONAL RIGHTS.

NAME	ADDRESS	
1. <u>LEE CO. Detention Facility</u>	<u>2311 Gateway DR.</u>	<u>3690</u>
2. <u>Judge Jacob WALKER III</u>	<u>2311 Gateway DR</u>	<u>Op. Hl. 36801</u>
3. <u>Major C. Torbert</u>	<u>2311 Gateway DR</u>	<u>Op. Hl. 36801</u>
4. <u>Shemoff Jay Jones</u>	<u>2311 Gateway DR</u>	<u>Op. Hl. 36801</u>
5. _____	_____	_____
6. _____	_____	_____

IV. THE DATE UPON WHICH SAID VIOLATION OCCURRED JUNE 5th
2005

V. STATE BRIEFLY THE GROUNDS ON WHICH YOU BASE YOUR ALLEGATION THAT YOUR CONSTITUTIONAL RIGHTS ARE BEING VIOLATED:

GROUND ONE: I went to Court on Oct. 26, 2004 after being confined on JUNE 5, 2004. 144 Days Jail Credit was given on JUNE 26th 2004, which is said to be taken away months later with out any notification; or justification,

STATE BRIEFLY THE FACTS WHICH SUPPORT THIS GROUND. (State as best you can the time, place and manner and person involved.)

in Court on ~~JUNE~~^{OCT} 26 2004. I expected plea bargain due to I Receive my Jail credit from June 5th 2004 to Oct. 26th 2004. my State Appointed Lawyer ^{Mr. (Phil Thompson)} Request the Jail credit in Court and the Judge Jacob Walker III Granted the Jail credit from June 5th 2004 to Oct. 26. 2004

GROUND TWO: my transcript from Court on Oct 26. 2004 says my Jail credit was granted for 144 Days.

SUPPORTING FACTS: Mrs. Busby (Jailer) carried me from the Jail to the booking office, showed me in my file where the Jail credit was granted on Oct 26. 2004 but on my Commital slip it read - 12 mos - 144 DAYS Jail credit
TAKEN off per Service (Judge J. Walker III)
Secretary

MRS. Busby said it meant take the 144 days from the 12 mos.

GROUND THREE: I had to have Court Document saying I'm to go to Court on June 9th to see the Judge who sentenced me on Case # CC04-1000

SUPPORTING FACTS: I was not called to Court on June 9th 2004.

I believe because I was not released after my original EOS date. And the Jail did not want me to confront the Judge after

one of the Jailer changed my Commital slip. because no officer

in side of the Chain of Command would not look in to the

Situation. Considering I've written my Lawyer - (Phil Thompson)

3 letters to let him know about the Situation but has no Responding letter or meeting - I've written the Circuit Clerk, they have not responded after 3 letters - I've written the Judge, have gotten no Response, I don't know why I'm in Jail except the Jailers say my Jail credit was taken away after receiving it in Court. I was not called back to Court in order to be notified of the changes in my Sentence. I also have letter from Lawyer (Mr. Phil Thompson) saying I would Receive all Time spent in Jail toward my Sentence. Receive in June 2004.

VI. STATE BRIEFLY EXACTLY WHAT YOU WANT THE COURT TO DO FOR YOU.
MAKE NO LEGAL ARGUMENT. CITE NO CASES OR STATUTES.

I would like for the court to look into this situation
and let me know why I'm still incarcerated or help me
straighten out the misunderstanding. I want my jail credit returned.
And the time after June 5th 2005 credited toward my Restitutions and
Fines. (\$100.00 per DAY after JUNE 5th 2005)

Walter James Avery
Signature of plaintiff(s)

I declare under penalty of perjury that the foregoing is true
and correct.

EXECUTED on 6-29-05 2004.
(Date)

Walter Avery
Signature of plaintiff(s)